

FILE COPY

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
LESTER A. HOFFMAN,	:	LS9712101RSG
aka LESTER CROSS,	:	
RESPONDENT.	:	

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The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

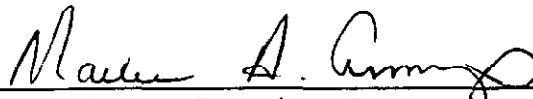
ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5<sup>th</sup> day of March 1998.

  
Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

LESTER A. HOFFMAN  
aka LESTER CROSS

LS9712101RSG

Respondent

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53, Stats., are:

Lester A. Hoffman  
102 Shadyhill Road  
Pittsburgh, PA 15205

State of Wisconsin Dept. of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708

This matter was commenced by the filing of a formal Complaint on December 10, 1997. A hearing in the matter was conducted on January 20, 1998, at 1400 East Washington Avenue, Madison, Wisconsin. Appearing for complainant was Attorney Steven M. Gloe. Mr. Hoffman did not appear, nor did anyone appear representing him.

Based upon the entire record in this case the administrative law judge recommends that the Department of Regulation & Licensing adopt as its final decision in the matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. On or after July 7, 1997, Lester A. Hoffman 102 Shadyhill Road, Pittsburgh, PA 15205 (respondent) submitted his application for a private security permit to the Department of Regulation & Licensing (department).

2. In respondent's application, he indicated "No" in response to the following application question:

Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this state or any other state, OR are criminal charges or DWI charges currently pending against you? If YES, complete and attach Form #2252.

3. On or about July 25, 1997, the department approved respondent's application and granted him Private Security Permit #4181.

4. Subsequent to the issuance of the permit, the department received information from the Federal Bureau of Investigation establishing that respondent has an extensive history of criminal convictions, including at least one felony conviction.

5. A felony conviction constitutes a bar to the issuance of a private security permit under section 440.26(5m)(a)2., Stats., which states as follows:

**440.26 Private detectives, investigators and security personnel;  
licenses**

\* \* \* \*

**(5m) PRIVATE SECURITY PERMIT.** (a) The department shall issue a private security permit to an individual if all of the following apply:

\* \* \* \*

2. The individual has not been convicted in this state or elsewhere of a felony, unless he or she has been pardoned for that felony.

6. There is no evidence in this record that respondent has been pardoned for any felony for which he was convicted.

7. Section 440.26(6), Stats., defines as unprofessional conduct having made a false statement in connection with any application for a license or permit.

**CONCLUSIONS OF LAW**

1. The Department of Regulation & Licensing has jurisdiction in this matter under sec. 440.26(6), Stats.

2. In having been convicted of one or more felonies, respondent is ineligible to hold a private security permit under sec. 440.26(5m)(a)2., Stats.

3. In having represented on his application that he has never been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this state or any other state, respondent has made a false statement in connection with his application for a permit, in violation of sec. 440.26(6)(a)3., Stats.

## ORDER

NOW, THEREFORE, IT IS ORDERED that the private security permit of Lester A. Hoffman be, and hereby is, revoked, effective on the date of the Final Decision and Order adopting the terms of this Proposed Decision.

IT IS FURTHER ORDERED that, pursuant to sec. 440.22(2), stats., Lester a. Hoffman shall pay the costs of this proceeding.

## OPINION

On December 29, 1997, Mr. Hoffman responded by letter to the Complaint in this matter, enclosing his security permits. After indicating that he was financially unable either to retain counsel or to attend the scheduled hearing in the matter, Mr. Hoffman states as follows:

I beg the court to please understand and take into consideration that it has been almost 25 years since my last problems with the justice system, and beg you to please consider that in the court's judgment of me. Also that I am almost 63 years of age, that I am the sole provider in my family, and am not considered employable in many fields.

Concerning the two names attributed to me, at a very early age I was placed in foster homes, and I was raised to adulthood as Lester Cross. In 1975 when applying for a copy of my birth certificate for myself and my children, I was informed that my birth name was Hoffman. I have used that name since, and have kept it clean with no problems whatsoever.

Assuming the veracity of Mr. Hoffman's representations, it would appear that his rehabilitation is complete, and his conviction record would not therefore create a bar to licensure in most licensed occupations. Nor would it have been a bar to Mr. Hoffman's holding a security permit had he applied prior to July 1, 1997, and a discussion of whether he should or should not be permitted to keep his permit would in such case be appropriate. That is because, prior to that date, sec. 440.26(5), Stats., stated in relevant part that "no person shall be eligible for a private security permit who has been convicted in this state or elsewhere of a felony within 5 years preceding application." However, that provision was replaced by 1995 Wisconsin Act 461, effective July 1, 1997, to establish as a requirement for a permit that the applicant "has not been convicted in this state or elsewhere of a felony, unless he or she has been pardoned for that felony." Consequently, any discussion whether Mr. Hoffman should be considered qualified to hold a permit notwithstanding his convictions, and despite the fact that he misrepresented his conviction record on his application, would be a purely academic one. Given the uncontested fact that Mr. Hoffman has a record of at least one felony conviction, the department is foreclosed from granting him a permit, and is thus also foreclosed from letting him keep the one previously granted to him.

Dated this 16th day of February, 1998.

  
Wayne R. Austin

Administrative Law Judge

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

In the Matter of Disciplinary Proceedings Against

Lester A. Hoffman,  
a/k/a Lester Cross,

AFFIDAVIT OF MAILING

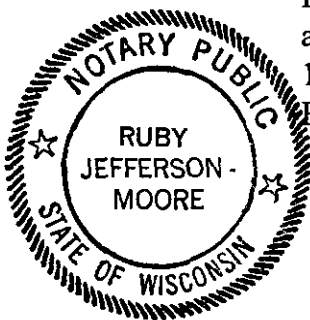
Respondent.

STATE OF WISCONSIN )  
COUNTY OF DANE )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On March 9, 1998, I served the Final Decision and Order dated March 5, 1998, LS9712101RSG, upon the Respondent Lester A. Hoffman, a/k/a Lester Cross, by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 819.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Lester A. Hoffman,  
a/k/a Lester Cross  
102 Shadyhill Road  
Pittsburgh PA 15205



Kate Rotenberg  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me  
this 9<sup>th</sup> day of March, 1998.

Ruby Jefferson-Moore  
Notary Public, State of Wisconsin  
My commission is permanent.

FILE COPY

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	Case # LS9712101RSG
LESTER A. HOFFMAN	:	
aka LESTER CROSS,	:	
RESPONDENT.	:	

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On March 5, 1998, the Department of Regulation and Licensing filed its Final Decision and Order in the above-captioned matter by which the department ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on March 17, 1998, the Department of Regulation and Licensing received the *Affidavit of Costs* in the amount of \$155.90, filed by Attorney Steven M. Gloe. On March 10, 1998, the Department of Regulation and Licensing received the *Affidavit of Costs of the Office of Legal Services* in the amount of \$283.35, filed by Administrative Law Judge Wayne R. Austin. The Department of Regulation and Licensing considered the affidavits on April 6, 1998, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$439.25, which is 100% of the costs set forth in the affidavits of costs of Attorney Steven M. Gloe and Administrative Law Judge Wayne R. Austin, which are attached hereto and made a part hereof, are hereby assessed against respondent, and shall be payable by him to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before May 9, 1998, shall constitute a violation of the Order unless respondent petitions for and the department grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the Department of Regulation and Licensing may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached "*Guidelines for Payment of Costs and/or Forfeitures*" should be enclosed with the payment.

Dated this 9th day of March, 1998.

DEPARTMENT OF REGULATION AND LICENSING

By: Marlene A. Cummings  
Marlene A. Cummings, Secretary

# Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416 hearing or speech  
TRS# 1-800-947-3529 impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On March 5, 1998, the Department of Regulation and Licensing  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \$439.25 Case #: LS9712101RSG

The amount of the forfeiture is: \_\_\_\_\_ Case # \_\_\_\_\_

Please submit a check or a money order in the amount of \$ 439.25

The costs and/or forfeitures are due: May 9, 1998

NAME: Lester A. Hoffman LICENSE NUMBER: \_\_\_\_\_

STREET ADDRESS: 102 Shadyhill Road

CITY: Pittsburgh STATE: PA ZIP CODE: 15205

Check whether the payment is for costs or for a forfeiture or both:

X  COSTS   FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X  INDIVIDUAL   ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING**  
**1400 E. WASHINGTON AVE., ROOM 141**  
**P.O. BOX 8935**  
**MADISON, WI 53708-8935**

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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**For Receipting Use Only**

Committed to Equal Opportunity in Employment and Licensing+

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LESTER A. HOFFMAN,  
aka LESTER CROSS

LS9712101RSG

Respondent

---

AFFIDAVIT OF COSTS  
OFFICE OF BOARD LEGAL SERVICES  
(SEC. 440.22, STATS.)

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STATE OF WISCONSIN    )  
                                  )ss.  
COUNTY OF DANE        )

Wayne R. Austin, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation & Licensing, Office of Board Legal Services.

2. In the course of his employment, your affiant was assigned as administrative law judge in the above-captioned matter.

3. Set out below are the actual costs of the proceeding for the Office of Board Legal Services in this matter. Unless otherwise noted, all times for the preparation of documents reflect the actual document preparation and editing time as reflected in the statistical summary program included with Microsoft Word for Windows version 6.0. All times for conferences and hearings are calculated commencing at the start of the first five minute period following actual start of the activity, and terminating at the start of the first five minute period prior to the actual end of the activity.

ADMINISTRATIVE LAW JUDGE EXPENSE

Wayne R. Austin



DATE &  
TIME SPENT

ACTIVITY

1/20/98  
8 minutes

Conduct Hearing

2/16/98  
5 hours, 35 minutes

Prepare Proposed Decision

Total Time Spent.....5 hours 43 minutes

Total administrative law judge expense for Wayne R. Austin:  
5 hours, 43 minutes @ \$48.72, salary and benefits:.....\$278.68

REPORTER EXPENSE - PAMELA A. HAACK

DATE &  
TIME SPENT

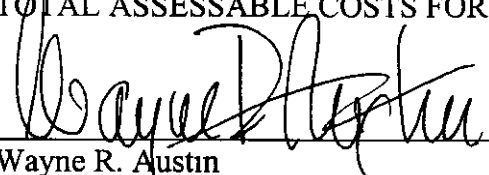
ACTIVITY

1/20/98  
8 minutes

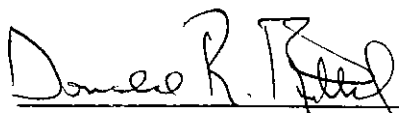
Record hearing

Total reporter expense for Pamela A. Haack  
8 minutes:.....\$4.67

TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES: \$283.35

  
\_\_\_\_\_  
Wayne R. Austin  
Administrative Law Judge

Sworn to and subscribed before me this 10th day of March, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

LESTER A. HOFFMAN  
aka LESTER CROSS,  
RESPONDENT

:  
:  
: AFFIDAVIT OF COSTS  
: 97 RSG 006  
:  
:

STATE OF WISCONSIN     )  
                                   ) ss.  
COUNTY OF DANE         )

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below upon information and belief are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
November 19, 1997	Review file, prepare complaint and notice of hearing	1 hour 30 minutes
January 20, 1997	Hearing preparation; attend hearing	1 hour 00 minutes
TOTAL HOURS		2 Hours 30 Min.

Total attorney expense for 2 hours and 30 minutes at  
\$41.00 per hour (based upon average salary and benefits  
for Division of Enforcement attorneys) equals:

**\$102.50**

INVESTIGATOR EXPENSE FOR CANDACE BLOEDOW

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
October 9, 1997	Phone call with employer	0 hour 10 minutes
October 9, 1997	Prepare case summary	0 hour 30 minutes
November 4, 1997	Letter to National Archives	1 hour 00 minutes
November 14, 1997	Review and revise case summary	1 hour 00 minutes

TOTAL HOURS

2 Hour 40 Min.

Total investigator expense for 2 hours and 40 minutes at  
\$20.00 per hour (based upon average salary and benefits  
for Division of Enforcement investigators) equals:

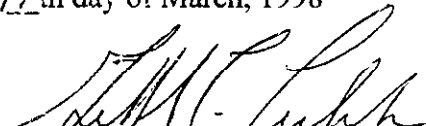
**\$53.40**

**TOTAL ASSESSABLE COSTS**

**\$155.90**

  
\_\_\_\_\_  
Steven M. Glos, Attorney

Subscribed and sworn to before me this  
17<sup>th</sup> day of March, 1998

  
\_\_\_\_\_  
Notary Public

My Commission is permanent.

G:\HBX\HOF\ COST.DOC



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson  
Governor

Mariene A. Cummings  
Secretary

1400 E. WASHINGTON AVENUE  
P.O. BOX 8935  
MADISON, WISCONSIN 53708-8935  
(608) 266-2112

March 17, 1998

LESTER A. HOFFMAN  
102 SHADYHILL ROAD  
PITTSBURGH PA 15205

RE: In The Matter of Disciplinary Proceedings Against Lester A. Hoffman,  
a/k/a Lester Cross, Respondent, LS9712101RSG, Assessment of Costs

Dear Mr. Hoffman:

On March 5, 1998, the Department of Regulation and Licensing issued an order involving your private security permit. The order requires payment of the costs of the proceedings.

Enclosed please find the Affidavits of Costs of the Office of Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs of the proceedings is \$439.25.

Under sec. RL 2.18, Wis. Adm. Code, objections to the affidavits of costs shall be filed in writing. Your objections must be received at the office of the Department of Regulation and Licensing, Room 171, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before April 5, 1998. After reviewing the objections, if any, the Department of Regulation and Licensing will issue an Order Fixing Costs. Under sec. 440.23, Wis. Stats., the department may not restore or renew a credential until the holder has made payment to the department in the full amount assessed.

Thank you.

Sincerely,

Pamela A. Haack  
Administrative Assistant  
Office of Legal Services

Enclosures

cc: Department of Regulation and Licensing  
Department Monitor

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Geologists; Professional Engineers; Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary.

### NOTICE OF RIGHTS OF APPEAL

TO: LESTER A HOFFMAN, a/k/a LESTER CROSS

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 3/9/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

#### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

#### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

#### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935